

Proposed Trailer Bill Language—Office of the Inspector General Workload Reduction (Issue #325)

Section 1. Section 6051 of the Penal Code is repealed:

~~6051. The Inspector General may conduct a management review audit of any warden in the Department of Corrections and Rehabilitation or superintendent in the Division of Juvenile Justice. The management review audit shall include, but not be limited to, issues relating to personnel, training, investigations, and financial matters. Each management review audit shall include an assessment of the maintenance of the facility managed by the warden or superintendent. The audit report shall be submitted to the secretary of the department for evaluation and for any response deemed necessary. Any Member of the Legislature or the public may request and shall be provided with a copy of any audit by the Inspector General, including a management review audit or a special audit or review. A report that involves potential criminal investigations or prosecution or security practices and procedures shall be considered confidential, and its disclosure shall not be required under this section.~~

Sec. 2. Section 6126 of the Penal Code is amended to read:

~~6126. (a) (1) The **Inspector General** shall review departmental policy and procedures, conduct audits of investigatory practices and other audits, be responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process, and conduct investigations of the Department of Corrections and Rehabilitation, as requested by either the Secretary of the Department of Corrections and Rehabilitation or a Member of the Legislature, pursuant to the approval of the **Inspector General** under policies to be developed by the **Inspector General**. The **Inspector General** may, under policies developed by the **Inspector General**, initiate an investigation or an audit on his or her own accord.~~

~~—(2) The **Inspector General** shall audit each warden of an institution one year after his or her appointment, and shall audit each correctional institution at least once every four years. Each audit of a warden shall include, but not be limited to, issues relating to personnel, training, investigations, and financial matters. Each four-year audit shall include an assessment of the maintenance of the facility managed by the warden. The audit report shall include all significant findings of the **Inspector General**'s assessment of facility maintenance. These audit reports shall be provided to the Legislature and shall be made public. The requirements of this paragraph shall be phased in by the **Inspector General** so that they are fully met by July 1, 2009.~~

~~(b) Upon completion of an investigation or audit, the **Inspector General** shall provide a response to the requester.~~

~~—(c) The **Inspector General** shall, during the course of an investigatory audit, identify areas of full and partial compliance, or noncompliance, with departmental investigatory policies and procedures, specify deficiencies in the completion and documentation of investigatory processes, and recommend corrective actions, including, but not limited to, additional training with respect to investigative policies, additional policies, or changes in policy, as well as any other findings or recommendations that the **Inspector General** deems appropriate.~~

~~—(d) The **Inspector General**, pursuant to Section 6126.6, shall review the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions and as superintendents for the state's juvenile facilities.~~

~~(e)(b) The **Inspector General** shall, in consultation with the Department of Finance, develop a methodology for producing a workload budget to be used for annually adjusting the budget of the **Office** of the **Inspector General**, beginning with the budget for the 2005-06 fiscal year.~~

Sec. 3. Section 6126.1 of the Penal Code is amended to read:

6126.1. (a) The **Inspector General** shall may establish a certification program for peace officers under the **Inspector General's** jurisdiction who are subject to Section 830.2. If established, the peace officer training course shall be consistent with the standard courses utilized by the Commission on Peace Officer Standards and Training and other major investigative offices, such as county sheriff and city police departments and the Department of the California Highway Patrol.

~~(b) Beginning January 1, 1999, peace officers under the Inspector General's jurisdiction conducting investigations for the Office of the Inspector General shall complete investigation training consistent with standard courses utilized by other major law enforcement investigative offices and be certified within six months of employment.~~

~~(c) Beginning January 1, 1999, all peace officers under the Inspector General's jurisdiction shall successfully pass a psychological screening exam before becoming employed with the Office of the Inspector General.~~

Sec. 4. Section 6126.2 of the Penal Code is repealed:

~~6126.2. The Inspector General shall not hire as a peace officer any person known to be directly or indirectly involved in an open internal affairs investigation being conducted by any federal, state, or local law enforcement agency or the Inspector General.~~

Sec. 5. Section 6126.3 of the Penal Code is amended to read:

6126.3. (a) The Inspector General shall not destroy any papers or memoranda used to support a completed audit within three years after a report is released.

(b) Except as provided in subdivision (c), all books, papers, records, and correspondence of the **office** pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government **Code** and shall be filed at any of the regularly maintained offices of the Inspector General.

(c) The following books, papers, records, and correspondence of the **Office** of the Inspector General pertaining to its work are not public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government **Code**, nor shall they be subject to discovery pursuant to any provision of Title 3 (commencing with Section 1985) of Part 4 of the **Code** of Civil Procedure or Chapter 7 (commencing with Section 19570) of Part 2 of Division 5 of Title 2 of the Government **Code** in any manner:

(1) All reports, papers, correspondence, memoranda, electronic communications, or other documents that are otherwise exempt from disclosure pursuant to the provisions of subdivision (d) of Section

~~6126.5, Section 6126.6, subdivision (c) of Section 6128, subdivision~~

~~(a) or (b) of Section 6131, or all other applicable laws regarding confidentiality, including, but not limited to, the California Public Records Act, the Public Safety Officers' Procedural Bill of Rights, the Information Practices Act of 1977, the Confidentiality of Medical Information Act of 1977, and the provisions of Section 832.7, relating to the disposition notification for complaints against peace officers.~~

(2) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to any audit or investigation that has not been completed.

(3) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to internal discussions between the Inspector General and his or her staff, or between staff members of the Inspector General, or any personal notes of the Inspector General or his or her staff.

(4) All identifying information, and any personal papers or correspondence from any person requesting assistance from the Inspector General, except in those cases where the Inspector General determines that disclosure of the information is necessary in the interests of justice.

(5) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to contemporaneous public oversight pursuant to Section 6133.

(6) All communications, written, verbal or otherwise, of and to the Governor, the Governor's authorized agents or employees, including, but not limited to, the Governor's Legal Affairs

Secretary and Appointments Secretary, or of and to the Inspector General in furtherance of the purposes of the vetting of warden and superintendent candidates are absolutely privileged from disclosure and confidential, and any communication made in the discretion of the Governor or the Inspector General with a candidate or person providing information in furtherance of the purposes of the vetting of candidates shall not constitute a waiver of the privilege or a breach of confidentiality.

Sec. 6. Section 6126.6 of the Penal Code is amended to read:

6126.6. (a) Prior to filling a vacancy for warden by appointment pursuant to Section 6050, or superintendent pursuant to Section 1049 of the Welfare and Institutions ~~Code~~, the Governor shall first submit to the **Inspector General** the names of candidates for the position of warden or superintendent for review of their qualifications.

—(b) Upon receipt of the names of those candidates and their completed personal data questionnaires, the Inspector General shall employ appropriate confidential procedures to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the duties of the office to which the appointment or nomination is made.

—Within 90 days of submission by the Governor of those names, the Inspector General shall advise in confidence to the Governor his or her recommendation whether the candidate is exceptionally well-qualified, well-qualified, qualified, or not qualified and the reasons therefore, and may report, in confidence, any other information that the Inspector General deems pertinent to the qualifications of the candidate.

—(c) In reviewing the qualifications of a candidate for the position of warden or superintendent, the Inspector General shall consider, among other appropriate factors, his or her experience in effectively managing correctional facilities and inmate or ward populations; ability to deal effectively with employees, detained persons and other interested persons in addressing management, confinement, and safety issues in an effective, fair, and professional manner; and knowledge of correctional best practices.

—(d) The Inspector General shall establish and adopt rules and procedures regarding the review of the qualifications of candidates for the position of warden or superintendent. Those rules and procedures shall establish appropriate, confidential methods for disclosing to the candidate the subject matter of substantial and credible adverse allegations received regarding the candidate's reputation and integrity which, unless rebutted, would be determinative of the candidate's unsuitability for appointment. No rule or procedure shall be adopted that permits the disclosure to the candidate of information from which the candidate may infer the source, and no information shall either be disclosed to the candidate nor be obtainable by any process which would jeopardize the confidentiality of communications from persons whose opinion has been sought on the candidate's qualifications.

—(e) All communications, written, verbal or otherwise, of and to the Governor, the Governor's authorized agents or employees, including, but not limited to, the Governor's Legal Affairs Secretary and Appointments Secretary, or of and to the Inspector General in furtherance of the purposes of this section are absolutely privileged from disclosure and confidential, and any communication made in the discretion of the Governor or the Inspector General with a candidate or person providing information in furtherance of the purposes of this section shall not constitute a waiver of the privilege or a breach of confidentiality.

—(f) When the Governor has appointed a person to the position of warden or superintendent who has been found not qualified by the Inspector General, the Inspector General shall make public that finding, after due notice to the appointee of his or her intention to do so. That notice and disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the Inspector General concerning the qualifications of the appointee.

—(g) No person or entity shall be liable for any injury caused by any act or failure to act, be it negligent, intentional, discretionary, or otherwise, in the furtherance of the purposes of this section, including, but not limited to, providing or receiving any information, making any recommendations, and giving any reasons therefore.

—(h) As used in this section, the term "Inspector General" includes employees and agents of the Office of the Inspector General.

- ~~—(i) At any time prior to the receipt of the review from the Inspector General specified in subdivision (b), the Governor may withdraw the name of any person submitted to the Inspector General for evaluation pursuant to this section.~~
- ~~—(j) No candidate for the position of warden or superintendent may be appointed until the Inspector General has advised the Governor pursuant to this section, or until 90 days have elapsed after submission of the candidate's name to the Inspector General, whichever occurs earlier. The requirement of this subdivision shall not apply to any vacancy in the position of warden or superintendent occurring within the 90 days preceding the expiration of the Governor's term of office, provided, however, that with respect to those vacancies, the Governor shall be required to submit any candidate's name to the Inspector General in order to provide him or her an opportunity, if time permits, to review and make a report.~~
- ~~—(k) Nothing in this section shall be construed as imposing an additional requirement for an appointment or nomination to the position of warden or superintendent, nor shall anything in this section be construed as adding any additional qualifications for the position of warden or superintendent.~~
- ~~—(l) Wardens who have been appointed but not yet confirmed as of July 1, 2005, need not be reappointed to the position after that date, but are subject to the review process provided in this section.~~

Sec. 7. Section 6128 of the Penal Code is repealed:

- ~~6128. (a) The Office of the Inspector General may receive communications from any individual, including those employed by any department, board, or authority who believes he or she may have information that may describe an improper governmental activity, as that term is defined in subdivision (b) of Section 8547.2 of the Government Code. It is not the purpose of these communications to redress any single disciplinary action or grievance that may routinely occur.~~
- ~~—(b) In order to properly respond to any allegation of improper governmental activity, the Inspector General shall establish a toll-free public telephone number for the purpose of identifying any alleged wrongdoing by an employee of the Department of Corrections and Rehabilitation. This telephone number shall be posted by the department in clear view of all employees and the public. When appropriate, the Inspector General shall initiate an investigation or audit of any alleged improper governmental activity. However, any request to conduct an investigation shall be in writing.~~
- ~~—(c) All identifying information, and any personal papers or correspondence from any person who initiated the investigation shall not be disclosed, except in those cases where the Inspector General determines that disclosure of the information is necessary in the interests of justice.~~

Sec. 8. Section 6132 of the Penal Code is repealed:

- ~~6132. The Inspector General shall report annually to the Governor and the Legislature a summary of his or her investigations and audits. The summary shall be posted on the Inspector General's Web site and otherwise made available to the public upon its release to the Governor and the Legislature. The summary shall include, but not be limited to, significant problems discovered by the Inspector General, and whether recommendations the Inspector General has made through audits and investigations have been implemented by the subject agency, department, or board.~~

Sec. 9. Section 6140 of the Penal Code is repealed:

- ~~6140. There is in the Office of the Inspector General the California Rehabilitation Oversight Board (C-ROB). The board shall consist of the 11 members as follows:~~
- ~~—(a) The Inspector General, who shall serve as chair.~~
 - ~~—(b) The Secretary of the Department of Corrections and Rehabilitation.~~
 - ~~—(c) The Superintendent of Public Instruction, or his or her designee.~~
 - ~~—(d) The Chancellor of the California Community Colleges, or his or her designee.~~
 - ~~—(e) The Director of the State Department of Alcohol and Drug Programs, or his or her designee.~~

- ~~—(f) The Director of Mental Health, or his or her designee.~~
- ~~—(g) A faculty member of the University of California who has expertise in rehabilitation of criminal offenders, appointed by the President of the University of California.~~
- ~~—(h) A faculty member of the California State University, who has expertise in rehabilitation of criminal offenders, appointed by the Chancellor of the California State University.~~
- ~~—(i) A county sheriff, appointed by the Governor.~~
- ~~—(j) A county chief probation officer, appointed by the Senate Committee on Rules.~~
- ~~—(k) A local government official who provides mental health, substance abuse, or educational services to criminal offenders, appointed by the Speaker of the Assembly.~~

Sec. 10. Section 6141 of the Penal Code is repealed:

~~6141. The California Rehabilitation Oversight Board shall meet at least quarterly, and shall regularly examine the various mental health, substance abuse, educational, and employment programs for inmates and parolees operated by the Department of Corrections and Rehabilitation. The board shall report to the Governor and the Legislature biannually, on March 15 and September 15, and may submit other reports during the year if it finds they are necessary. The reports shall include, but are not limited to, findings on the effectiveness of treatment efforts, rehabilitation needs of offenders, gaps in rehabilitation services in the department, and levels of offender participation and success in the programs. The board shall also make recommendations to the Governor and Legislature with respect to modifications, additions, and eliminations of rehabilitation and treatment programs. In performing its duties, the board shall use the work products developed for the department as a result of the provisions of the 2006 Budget Act, including Provision 18 of Item 5225-001-0001.~~